

**MINUTES OF THE COURT OF APPEAL
STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT**

August 21, 2001

DIVISION ONE

Court convened at 9:00 A.M.

Present: Spencer, P.J., Ortega, J., Vogel (Miriam A.), J., Mallano, J. and S. Beaux,
Deputy Clerk.

Each of the following:

B131093 Wilson v. Tamen
B141002 People v. Ajayi
B142679 People v. Gonzalez
B143773 People v. Acosta, Jr.
B143925 People v. Davenport & Evans
B145052 D.C.F.S. v. Brenda F.
B145114 People v. Love
B145326 People v. Ortiz
B145396 People v. Lewis
B145968 People v. Schartman
B146271 People v. Markell C.
B146354 People v. Miller
B146662 People v. Ward
B147215 D.C.F.S. v. Martha A.
B147368 People v. Thomas, Jr.
B147412 People v. Syposs
B147999 People v. Lopez
B148007 D.C.F.S. v. Mario A.
B149446 People v. Emanuel
B150429 Kravitz v. S.C.L.A. (Milner)

Argument waived, cause submitted.

DIVISION ONE (Continued)

B141199 People
 v.
 Federico

Merits:

Argued by Jerald W. Newton for appellant and by Steven Mercer, deputy attorney general, for respondent. Cause submitted.

B144236 Cookson
 v.
 Owens et al.

Merits:

Argued by William McD. Miller III for respondents. No appearance for appellant. Cause submitted.

Ortega, J. leaves the bench.

B133166 Heather S.
 v.
 Huntington Memorial Hospital

Merits:

Argued by Douglas G. Benedon for appellant and by John J. Weber for respondent. Cause submitted.

B141801 Khavarian et al.
 v.
 Texaco, Inc., et al.

Merits:

Argued by Warrington S. Parker III for respondents. No appearance for appellants. Cause submitted.

DIVISION ONE (Continued)

B144266 People
 v.
 Bowell

Merits:

Argued by Kyle Marie Wesendorf for appellant and by Daniel Rogers, deputy attorney general, for respondent. Cause submitted.

B145513 Gold
 v.
 Gold
 Estate of Morris Gold, Deceased.

Merits:

Argued by Sandra J. Levin for appellant Robert Gold and by David C. Nelson for appellant Richard Gold. Cause submitted.

B135390 Bourban
 v.
 Davis

Merits:

Argued by Roy G. Weatherup for appellant. No appearance for respondent. Cause submitted.

Ortega, J. returns to the bench.

B149357 Thrifty Oil Co.
 v.
 Superior Court, Los Angeles County
 (Linder, r.p.i.)

Merits:

Argued by Ronald J. Nessim for petitioner and by David Daar for real party in interest. Cause submitted.

Ortega, J. leaves the bench.

DIVISION ONE (Continued)

B139739 National Union Fire Ins. Co.
 v.
 Gladych & Associates, Inc., et al.

Merits:

Argued by Cynthia Goodman for appellant Gladych & Associates and by John A. Gladych for appellant Franklin Reinforcing Steel Co. Cause submitted.

B146289 People
 v.
 Heather B.

Merits:

Argued by Terran T. Steinhart for appellant and by Michael Katz, deputy attorney general, for respondent. Cause submitted.

Ortega, J. returns to the bench.

Vogel (Miriam A.), J. leaves the bench.

B142133 Crowell
 v.
 DCH Health Services et al.

Merits:

Argued by William H. Ford III for appellant, by John P. Flynn for respondent Hunter, by Neil F. Kligman for respondent Zinberg, by Brian A. Baker for respondent Westerhoff and by Robert L. Layton for CareMore Medical Group et al. Cause submitted.

Court recesses until 1:30 P.M.

DIVISION ONE (Continued)

Court reconvened at 1:30 P.M.

Present: Spencer, P.J., Ortega, J., Mallano, J. and S. Beaux, Deputy Clerk.

B148446 Metropolitan Water District of So. Calif., et al.

B148451 v.

Superior Court, Los Angeles County
(Cargill et al., r.p.i.)

Merits:

Argued by Jon B. Eisenberg for petitioner Metropolitan, by Stuart M. Richter for petitioner CDI, by Edward Gregory for rpi CalPers, by Walter Cochran-Bond for rpi Cargill, by Elwood Lui for amicus County of Los Angeles, by Charles E. Slyngstad for amicus Sanitation District No. 2 and by Brian J. Waid for amicus Holmgren. Cause submitted.

Court adjourned.

B149446 People (Not for Publication)
v.
Emanuel

The judgment is vacated and the cause is remanded to the trial for resentencing, with directions to either (a) reimpose the same sentence for permissible reasons or (b) impose such other sentence as the trial court deems appropriate under the circumstances and, if necessary, to (c) issue a corrected abstract of judgment.

Vogel (Miriam A.), J.

We concur: Spencer, P.J.
Ortega, J.

August 21, 2001-Continued

DIVISION ONE (Continued)

[illegible]

The judgment is affirmed.

Vogel (Miriam A.), J.

We concur: Spencer, P.J.
 Mallano, J.

B145968 People (Not for Publication)
v.
Schartman

The judgment is affirmed.

Vogel (Miriam A.), J.

We concur: Spencer, P.J.
Ortega, J.

B147727 Consumer Cause, Inc.
v.
Smilecare et al.

Filed order denying petition for rehearing.

DIVISION THREE

B150291 Lana Varela (Not for Publication)

V.

Superior Court, Los Angeles County
(Gilbert R. Varela, r.p.i.)

The petition for writ of mandate is granted. The respondent court is directed to: (1) vacate its order finding Lana in contempt; (2) conduct a new hearing to allow presentation of the "totality of the evidence" under the reasonable doubt standard; and (3) determine whether Lana has a reasonable good faith belief the children potentially could suffer further physical or emotional harm while visiting with Gilbert. No costs are awarded in this proceedings.

Kitching, J.

We concur: Klein, P.J.
Croskey, J.

DIVISION FOUR

B144507 People (Not for Publication)

V.

Blankenship

The judgment is affirmed.

Vogel (C.S.), P.J.

We concur: Epstein, J.
Hastings, J.

August 21, 2001-Continued

DIVISION FOUR (Continued)

B144887 D.C.F.S. (Not for Publication)
v.
Anglia M.

The court's order of September 25, 2000, denying appellant's section 388 petition is affirmed.

Curry, J.

We concur: Vogel (C.S.), P.J.
Epstein, J.

B143368 Strurm (Not for Publication)
v.
County of Los Angeles

The judgment is affirmed.

Vogel (C.S.), P.J.

We concur: Hastings, J.
Curry, J.

B148502 CBS Broadcasting Inc. (Not for Publication)
v.
Superior Court, Los Angeles County
(California Department of Social Services, r.p.i.)

Let a peremptory writ issue directing respondent court to vacate its judgment denying the motion for injunctive relief and to enter a new and different judgment granting such motion. Each party is to bear its own costs in this original proceeding.

Curry, J.

We concur: Epstein, Acting P.J.
Hastings, J.

August 21, 2001-Continued

DIVISION FOUR (Continued)

B082512 Saks
v.
Charity Mission Baptist Church

Filed order modifying opinion. Petition for rehearing is denied. (Change in judgment)

DIVISION FIVE

B142122 People (Not for Publication)
v.
Frederick Martin

The judgment is affirmed.

Grignon, J.

We concur: Turner, P.J.
 Armstrong, J.

****Add the following entry to the minutes of August 15, 2001****

B149951 In Re Paul F.
Los Angeles County, D.C.F.S.
v.
Susan J.

Good cause appearing, it is hereby ordered that appeals B149951 and B151794 are hereby consolidated for the purposes of briefing, argument and decision, with case B149951 being the lead case.

August 21, 2001-Continued

DIVISION SIX

B145810 People
v.
Rosas

(Not for Publication)

The judgment is affirmed.

Perren, J.

We concur: Yegan, Acting P.J.
Coffee, J.

DIVISION SEVEN

B142878 People (Not for Publication)
v.
Miller

The judgment is reversed and the trial court is directed to advise defendant of his guilty plea and enter a new plea.

Johnson, Acting P.J.

We concur: Woods, J.
Boland, J. (Assigned)

B146265 Kim
v.
America Online

Filed order denying petition for rehearing.

B133503 Lieberman
v.
Little Company of Mary Hospital

Filed order denying petition for rehearing.

August 21, 2001-Continued

DIVISION SEVEN (Continued)

B143934 Allen (Not for Publication)
v.
McLemore

The judgment is affirmed. Respondent(s) to recover costs.

Johnson, Acting P.J.

We concur: Woods, J.
Boland, J. (Assigned)

B140032 Samuel M. (Not for Publication)
v.
Los Angeles County Dept. of Children and Family Services
In re Shernekwa M., a Person Coming Under the Juvenile Court Law.

The judgment is affirmed.

Johnson, J.

We concur: Lillie, P.J.
Boland, J. (Assigned)

B141126 Mountain View Estate Homeowners Assoc. (Not for Publication)
v.
County of Los Angeles
Mesivata of Greater Los Angeles

The judgment of the trial court is reversed insofar as it denies a writ of mandate ordering respondent to vacate and set aside its adoption of the mitigated negative declaration for the proposed project and the matter is remanded to the trial court with directions to issue the requested writ and such other accompanying relief as the court deems appropriate. In all other respects the judgment is affirmed. Appellant is awarded its costs on appeal.

Johnson, Acting P.J.

We concur: Woods, J.
Boland, J. (Assigned)

DIVISION SEVEN (Continued)

B139959 Ronald Irving May (Not for Publication)
 v.
 Moses O. Onyejekwe et al.

The order declaring appellant to be a vexatious litigant and requiring him to post bond is reversed. Appellant shall recover his costs of appeal.

Johnson, Acting P.J.

We concur: Woods, J.
 Boland, J. (Assigned)

B143379 Morohoshi et al. (Not for Publication)
 v.
 Pacific Home et al.

The order of the trial court is reversed, and the matter is remanded to the trial court for further proceedings consistent with this opinion. Appellants are entitled to recover their costs on appeal.

Johnson, J.

We concur: Lillie, P.J.
 Boland, J. (Assigned)

B147761 GLH Pacific Gardens, LLC (Not for Publication)
 v.
 Rent Control Board of the City of Santa Monica

The judgment is affirmed. Respondent(s) to recover costs.

Johnson, Acting P.J.

We concur: Woods, J.
 Boland, J. (Assigned)

August 21, 2001-Continued

DIVISION SEVEN (Continued)

B145171 McMahon (Not for Publication)
v.
El Camino College District

The judgment is affirmed. Each side to bear its own costs on appeal.

Johnson, J.

We concur: Lillie, P.J.
Boland, J. (Assigned)

B145169 Kim Lockley (Certified for Publication)
v.
Law Office of Cantrell, Green, Pekich, Cruz & McCo

The judgment of dismissal is reversed and on remand the trial court is directed to (1) vacate the order sustaining the demurrer and (2) enter a new and different order overruling the demurrer. Appellant is entitled to costs incurred in connection with the appeal.

Woods, J.

We concur: Lillie, P.J.
 Johnson, J.

B131078 Rosenman (Certified for Publication)
v.
Christensen, Miller, Fink, Jacobs, Glaser, Weil & Shapiro

The judgment of the trial court is modified to strike the award of attorney fees in favor of respondents. In all other respects, the judgment is affirmed. Respondents' request for attorney fees is denied. The parties shall bear their own costs on appeal.

Johnson, Acting P.J.

We concur: Woods, J.
Boland, J. (Assigned)